

Exhibit G.

In The Matter Of:

*Liberty Mutual Insurance Co. v.
The Black & Decker Corp.*

*H. Lester Schurr
October 24, 1997*

*Vincent Varallo Associates, Inc.
Registered Professional Reporters
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Word Index included with this Min-U-Script®

[8] A: It was there for firefighting purposes.

[9] Q: You said you drew another blue line which you [10] said is probably wrong. Why don't we label that [11] C.

[12] A: (Witness complies with request.)

[13] Q: And then if you could try and draw that [14] drainage ditch in the correct place as best you [15] remember.

[16] A: Boy, I don't know, it probably came down [17] through here (indicating).

[18] Q: Could you label that D.

[19] A: D?

[20] Q: D.

[21] A: (Witness complies with request.)

[22] Q: What was D used for?

[23] A: Well, runoff, water runoff and so on.

[24] Q: And it was water runoff from where?

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[1] A: From all the surrounding area there.

[2] Q: Would there be oil in that water runoff?

[3] MR. BROWN: Objection.

[4] THE WITNESS: Possibly a slight [5] amount, yes. In this ditch over a series of [6] baffles and underflows and so forth, to catch any [7] oil that might escape. And they in turn would be [8] - whenever there was any accumulation, if there [9] was an accumulation of oil, it was pumped off. [10] There was a series, I think, of four overflows and [11] underflow baffles, and at the end there was an oil [12] skimmer.

[13] BY MR. PIROZZOLO:

[14] Q: By "the end," the end of what?

[15] A: At the end of the baffles.

[16] Q: Would it be correct that an effort was made [17] to reclaim as much oil as you could from the [18] runoff?

[19] A: Yes; sure. It had a Brill, what was called a [20] trade name, Brill separator. It had a rope on it [21] that continually went and had affinity for oil, it [22] would pick up the oil and drop it into a tank.

[23] Q: Now, what were the drainage ditches - what [24] were the drainage area channels made of?

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[1] A: Earth.

[2] Q: That is both B and D; is that right?

[3] A: B and D.

[4] Q: Were made of earth?

[5] A: Yes.

[6] Q: Was there any other drainage channels?

[7] A: No. There was one that came down

here by the [8] railroad and tied in here somewhere. I can't tell [9] you just exactly where it was, but probably down [10] through here and tied in.

[11] Q: Could you mark that and label it E.

[12] A: I'm only guessing at this now.

[13] Q: Don't guess. Just give us your best memory [14] of where it is.

[15] A: (Witness complies with request.)

[16] Q: Can you mark that with an E.

[17] A: E?

[18] Q: Yes.

[19] A: (Witness complies with request.)

[20] Q: And was that made of earth as well?

[21] A: Yes.

[22] Q: Did that have the kind of baffles and things [23] to reclaim oil that you've just described?

[24] A: No, because it emptied into prior to where

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[1] the skimmer was, the Brill skimmer.

[2] Q: So D and E are made of -

[3] A: Earth.

[4] Q: - earth and the runoff of water would go [5] into those?

[6] A: Yes.

[7] Q: And would that water have oil in it?

[8] A: Possibly, yes, because that's why we had the [9] skimmer there.

[10] Q: And was the skimmer located in the vicinity [11] of A?

[12] A: Closer - pretty close to A. It was down in [13] about here, somewhere here (indicating).

[14] Q: You can mark that with an F where you think [15] the skimmer was.

[16] A: (Witness complies with request.)

[17] Q: Thank you.

[18] Was there a flood on the site at [19] some point?

[20] A: Yes.

[21] Q: Do you remember more than one flood?

[22] A: Two.

[23] Q: Approximately when was the first flood?

[24] A: I think one was '70 and the other '72.

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[1] Q: Focusing on the flood in 1970, do you [2] remember about what time of the year that was?

[3] A: Yes, it was - I was away hunting so it was [4] probably in the fall of the year.

[5] Q: Could you describe what happened when the [6] flood occurred?

[7] A: Well, apparently I wasn't there, I

can only [8] say what I have been told. The earthen wall broke [9] and spilled some sludge into the Schuylkill [10] River.

[11] Q: That's the earthen wall in what location?

[12] A: Well, I would think it was in No. 4.

[13] Q: When you say "wall," is that a wall [14] between - let me ask the question - a wall [15] between Area 4 and the river?

[16] A: Yes, the earthen wall between 4 and the [17] river.

[18] Q: When you returned from hunting did you see [19] the wall broken?

[20] A: Yes.

[21] Q: Did you see anything to indicate that the [22] sludge had gone into the river?

[23] A: Oh, yes.

[24] Q: What did you see?

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[1] A: Sludge.

[2] Q: Do you know about how much sludge was [3] released in 1970 into the river?

[4] A: Oh, I don't know, something about a - [5] I [5] don't want to say, but I believe somebody said a [6] hundred thousand gallons. I don't know. My memory [7] is vague on that.

[8] MR. BROWN: It might be easier if [9] you answer towards the court reporter because -

[10] THE WITNESS: She didn't kick me.

[11] MR. BROWN: Her legs aren't long [12] enough.

[13] BY MR. PIROZZOLO:

[14] Q: Did anything else occur during the flood of [15] 1970 with respect to release of materials?

[16] A: Not that I know of or can recall.

[17] Q: Now, is the next flood that occurred [18] associated with a hurricane?

[19] A: That was in the spring of '72.

[20] Q: What hurricane was that?

[21] A: Agnes.

[22] Q: Could you describe what happened during the [23] flood that occurred when Hurricane Agnes came [24] through?

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[1] A: Well, the river was so high it went in over [2] the top of the lagoons and swept the material out.

[3] Q: How high did the river rise at that time?

[4] A: I wouldn't want to say but it was very high, [5] I know that. I believe they called it the Hundred [6] Year Flood.

[7] Q: Did it flood all of the areas -

[8] A: Everything, it was over everything

down in (9) this area (indicating).

(10) Q: Let me just -

(11) A: Over the railroad tracks and everything.

(12) Q: Where are the railroad tracks?

(13) A: They are right here (indicating).

(14) Q: Could you place a line for the railroad (15) tracks.

(16) A: Where it says it's an abandoned railroad (17) bed?

(18) Q: Where it says abandoned -

(19) A: Yes.

(20) Q: - abandoned railroad bed.

(21) A: It wasn't abandoned at that time but they (22) have since been abandoned.

(23) Q: Is it your testimony that the flood covered (24) all of the area -

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(1) A: Yes.

(2) Q: - between the river and the abandoned - and (3) the railroad bed?

(4) A: Yes; yes.

(5) Q: Did it go to the other side of the railroad (6) bed?

(7) A: Oh, yes.

(8) Q: How far to the other side?

(9) A: It was up within about a foot or two of the (10) office door which was back up in here (11) (indicating).

(12) Q: Did you make a mark of where that is, the (13) office door?

(14) A: Well, this, as I say, is very confusing.

(15) Q: As best you can recall.

(16) A: Probably up to about here (indicating).

(17) Q: Could you put the letter G on the line that (18) you just drew.

(19) A: G?

(20) Q: Yes.

(21) A: (Witness complies with request.)

(22) Q: Did it reach any of the tanks?

(23) A: It surrounded the tanks, sure, but the tanks (24) stayed intact.

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(1) Q: Did it reach any of the distillation -

(2) A: No; no.

(3) Q: - machinery?

(4) A: No.

(5) Q: Is it correct that the rise in the flood (6) water covered everything between the railroad bed (7) and the river?

(8) A: Yes, and then it covered over here, too (9) (indicating).

(10) Q: And on the other side of the railroad track, (11) what was the limit of the flood?

(12) A: Well, I believe it might have been

in the (13) lower parts of the area, it might have been 8 (14) feet.

(15) Q: Maybe I should ask it this way: Did the (16) flood cover the area that's been marked No. 9? (17) Did it cover the area marked No. 9?

(18) A: Oh, yes.

(19) Q: Did it cover the area marked No. 8?

(20) A: Yes.

(21) Q: Did it cover the pond area marked "pond"?

(22) A: I'm a little bit vague on that but I think it (23) did.

(24) Q: And is it your testimony it covered the Area

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(1) No. 1 -

(2) A: No.

(3) Q: - up to the Line G?

(4) A: No; no. It didn't cover any of this back (5) here (indicating).

(6) Q: The Area 1 up to the Line G -

(7) A: Yes.

(8) Q: - is that right?

(9) A: Yes. It did cover down in through here (10) (indicating).

(11) Q: Did it cover Area 2?

(12) A: Yes; mm-hmm.

(13) Q: Did it cover Area 10?

(14) A: No.

(15) Q: Now, as a result of the flood waters, what (16) happened to oil material and sludge?

(17) A: Well, it went in over the top of the lagoons (18) and swept it out.

(19) Q: Where did it sweep it to?

(20) A: To the river. And to some of the surrounding (21) ground there, too.

(22) Q: Was anything done at that time by way of (23) cleanup from the hurricane?

(24) A: Oh, yeah, the EPA did - or somebody from the

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(1) government did quite extensive clean-up.

(2) Q: Do you recall what they did?

(3) A: Well, in some cases they scooped it up and (4) brought it back and threw it back into the (5) lagoons, and in other cases they hauled - put it (6) on railcars and hauled it away.

(7) Q: And was there cleanup after the 1970 flood?

(8) A: No, only what we did.

(9) Q: What did you do?

(10) A: Well, cleaned it up as best we could.

(11) Q: If you could explain what you did.

(12) A: Bulldozer and so forth and so on.

(13) Q: To put it back where it was?

(14) A: Yes, and reseal the lagoons and reinforce (15) them.

(16) Q: Did you repair the dike that had broken?

(17) A: Yes.

(18) Q: What did you do to fix the lagoons?

(19) A: Put heavy stone in and then sealed it with (20) earth.

(21) Q: How did you seal it with earth? What do you (22) mean by sealing it with earth?

(23) A: Well, we made it leakproof; that's what I (24) mean by sealing it.

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(1) Q: How did you do that?

(2) A: I just finished telling you.

(3) Q: I'm sorry, I don't mean to be difficult, just (4) for the record, I understand you, but to try and (5) get an explanation.

(6) A: We put some heavy stone in and covered it (7) with earth and compacted it.

(8) Q: Was that at the bottom of the lagoon?

(9) A: No, it was the side. It was the side, the (10) wall that broke out.

(11) Q: Let me just go back. You are talking now (12) about repairing the dike that had broken?

(13) A: Yes.

(14) Q: And the dike was repaired by putting stone (15) and then earth -

(16) A: Yes.

(17) Q: - and compacting it; is that correct?

(18) A: That's right.

(19) Q: I don't mean to irritate you, it's just that (20) we've got to get a written record. Although it's (21) very clear what you are saying, some day this is (22) going to be read and I have to make sure that (23) whoever is listening can understand.

(24) A: As I said initially, we are talking 12 - 20

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(1) years ago and my memory isn't that good.

(2) Q: I appreciate your cooperation. I (3) understand.

(4) A: Off the record.

(5) MR. PIROZZOLO: That's fine.

(6) (Discussion held off the record.)

(7) BY MR. PIROZZOLO:

(8) Q: Have you ever heard of A&A Waste Oil (9) Company?

(10) A: Yes.

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(11) Q: How have you heard of A&A Waste Oil Company?

(12) A: Well, we had bought waste oil from them.

(13) Q: And when did you buy waste oil from them?

(14) A: I couldn't give you - as I say, our records (15) are destroyed and I couldn't give you a date on (16) that, but... It was probably in the late '70s, I (17) don't know.

(18) Q: Did you buy water from A&A Waste Oil Company (19) in the 1960s? Did you buy -

(20) A: As I say, I would be reluctant to say.

(21) Q: I would like to show you a document that was (22) marked previously as Exhibit 5 in the Goldstein (23) deposition.

(24) A: I would tell you the EPA has far more records

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(1) than we do because they had come in and (2) practically copied all of our records.

(3) Q: Do you recognize that as one of the records (4) that was copied by the EPA?

(5) A: Well, I'll tell you, I can't - from this, I (6) can't tell you. Some of the things that I see (7) here would be in line with what we did. We had a (8) load number and we had a date and we had - see, I (9) can't read all this here. D as in Debbie, yes, (10) that would look like something we did, yes.

(11) Q: And did you keep track of the oil that was (12) delivered by particular -

(13) A: Yes, each one had a separate sample.

(14) Q: So that when A&A delivered oil -

(15) A: Yes.

(16) Q: - you would have kept track of A&A's oil?

(17) A: Oh, yes.

(18) Q: The second page is easier to read than the (19) first, if you can just go to the second page. One (20) column is headed "date."

(21) A: Yes.

(22) Q: Did you keep track of the date?

(23) A: Absolutely.

(24) Q: Would that have been the date that the oil

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(1) was delivered to you?

(2) A: Yes.

(3) Q: And the next column is "load number." Did (4) each load have a unique number?

(5) A: Everybody's oil had a separate load number.

(6) Q: And did you assign the number at

the time of (7) delivery? Did you assign the number at the time (8) of delivery?

(9) A: Yes, the laboratory would go out and take a (10) sample and then give it a load number.

(11) Q: Now, the next column, I'm having trouble (12) reading but does this say fats?

(13) A: Fats.

(14) Q: F-A-T-S?

(15) A: Yes.

(16) Q: What did that mean?

(17) A: Well, we checked whether there was any fatty (18) acids involved.

(19) Q: And if there were, that would -

(20) A: It would be a cause for rejection.

(21) Q: So where okay was written, does that mean (22) that there wasn't fatty acids?

(23) A: That means there wasn't.

(24) MR. BROWN: I want to stay on the

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(1) record for this. The witness is not testifying (2) about these individual loads, rather you are (3) asking general questions about what the columns (4) mean?

(5) MR. PIROZZOLO: So far, yes.

(6) MR. BROWN: I just want to be (7) clear.

(8) BY MR. PIROZZOLO:

(9) Q: The next column is "gross" -

(10) A: "Gross gallons."

(11) Q: That would be the number of gallons delivered (12) with each load?

(13) A: Yes; yes.

(14) Q: Do you know what the next -

(15) A: "BS&W in excess of 8 percent."

(16) Q: What is that?

(17) A: Bottom sediment and water in excess of eight (18) percent. We allowed them eight percent. After (19) that we would deduct proportionately.

(20) Q: And then you end up with net gallons; is that (21) right?

(22) A: That would give us net gallons, yes.

(23) Q: The next column is "receipt number." Did you (24) give them a receipt?

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(1) A: We gave them a receipt, yes.

(2) Q: Does the receipt have a unique number? Did (3) the receipt have a unique number?

(4) A: No; no.

(5) Q: Each receipt had its own number?

(6) A: Absolutely, yes.

(7) Q: Was it assigned at the time the load was (8) delivered?

(9) A: Yes; mm-hmm.

(10) Q: In the next column is the word

"amount."

(11) A: It would be dollars and cents.

(12) Q: Who paid the money? Did you buy the oil?

(13) A: We bought the oil.

(14) Q: So that would be what you paid for the oil?

(15) A: Mm-hmm.

(16) Q: And under "date paid," what would that be?

(17) A: That would be whatever the date was it was (18) paid.

(19) Q: And under "check number"?

(20) A: That would be our check number.

(21) Q: Now, having gone through these columns and (22) looked at this, do you recognize this as a (23) ledger - as a record that A&A - that Berks kept?

(24) A: Well, it looks like a record. I can't

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(1) certify that it was but it looks like a record.

(2) Q: Does that look like the records that A&A (3) used - I'm sorry, does that look like the records (4) that Berks used?

(5) A: That anybody had. It looks like a record of (6) anybody's incoming oil.

(7) Q: Does that look like a record that Berks kept (8) of anybody's incoming record?

(9) A: That's a record we kept.

(10) Q: And this is headed "A&A Waste Oil"?

(11) A: Yes.

(12) Q: So would that have been a record of A&A Waste (13) Oil?

(14) A: That would have been a record of A&A's waste (15) oil.

(16) Q: The lagoons that you've described, do you (17) remember about how deep they were?

(18) A: Probably 6 feet deep.

(19) Q: Do you remember, Mr. Schurr, customers named (20) Philadelphia Textile Cleaners and Glidden Paint?

(21) A: Yes, I do.

(22) Q: Do you remember at some point that they (23) became customers of Berks Associates?

(24) A: I don't know if - we had a business

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(1) relationship.

(2) Q: Do you remember when that business (3) relationship began?

(4) A: Again, I would have - hate to -

(5) Q: Approximately.

(6) A: Probably '47, 1947, somewhere in that area.

(7) Q: Did it continue for a period of time?

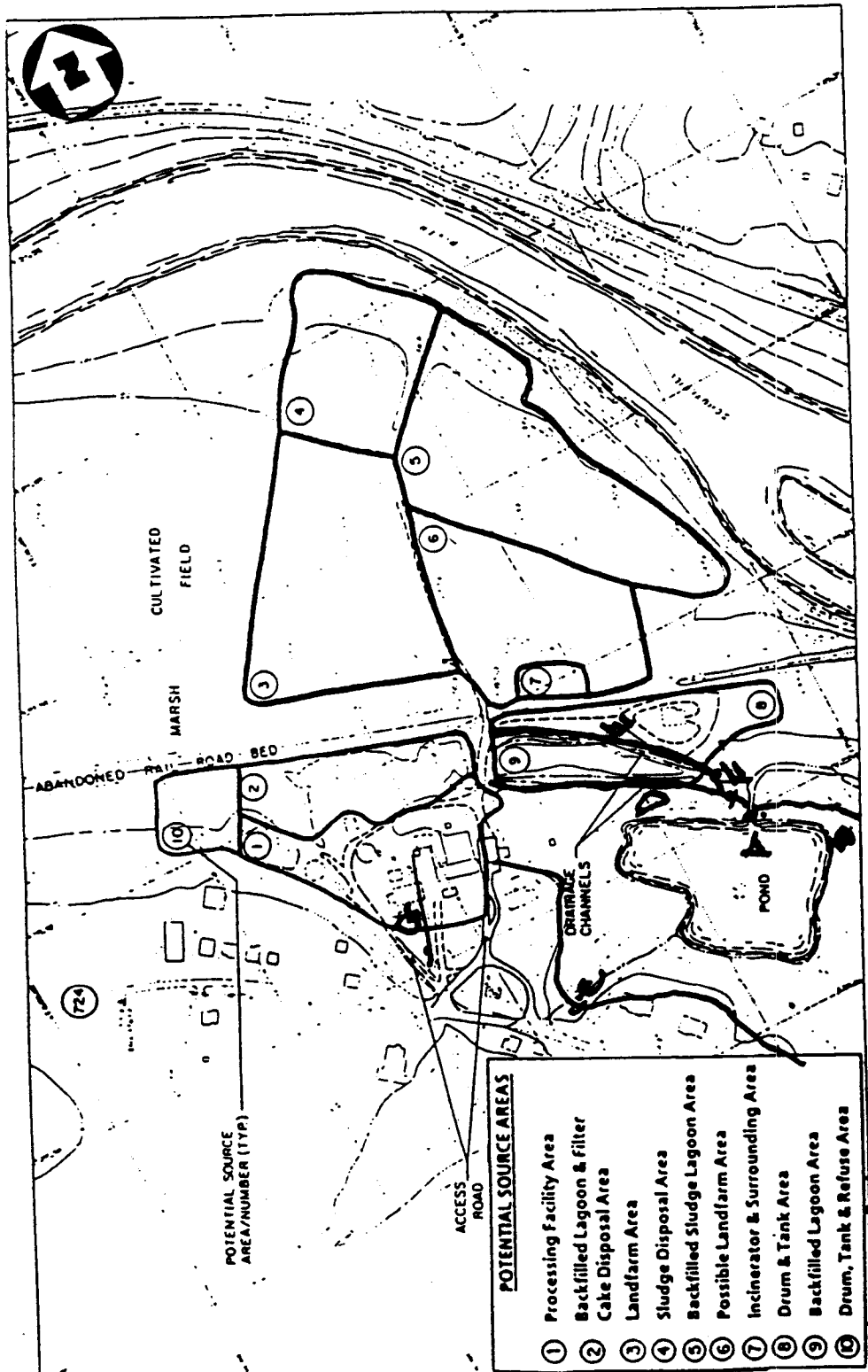
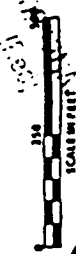


FIGURE 2



GENERAL SITE FEATURES AND POTENTIAL SOURCE AREAS
DOUGLASSVILLE DISPOSAL SITE, UNION TWP., PA

EXHIBIT

Schurr 1
10-24-97

L. & L. MFG CO.

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